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is not a beneficiary. *Hewett v. Woman's Hospital Aid Ass'n.* (1906), 73 N. H. 556, 64 Atl. 190, 7 L. R. A. 496; *Bruce v. Cent. Meth. Ep. Church* (1907), 147 Mich. 230, 110 N. W. 951; *Gallon v. House of Good Shepherd* (1909), 158 Mich. 361, 122 N. W. 631. This is the position taken by the court in the principal case. No attempt was made in its opinion to differentiate charitable and religious corporations. The exemption of charitable corporations from liability has not been, as a rule, extended to religious corporations. *Chapin v. Holyoke Y. M. C. A.* (1896), 165 Mass. 280, 42 N. E. 1130; *Davis v. Congregational Church*, 129 Mass. 367, 37 Am. Rep. 368; *Rector etc. of Church of Ascension v. Burkhardt*, 3 Hill, 193; *Bruce v. Cent. Meth. Ep. Church*, supra. Had the court distinguished these classes and taken the view that the Salvation Army is a religious rather than a charitable corporation, abundant authority might have been found to support its decision. For a full discussion of the liability of charitable corporations, see 5 MICH. L. REV., pp. 552, 662.

CONSTITUTIONAL LAW—DUE PROCESS—REGULATION OF RAILROAD.—A state railway commission ordered a railway company to construct a spur track between stations, to a private mill and furnish cars and facilities to the mill owner for loading the produce of his mill thereat for shipment. *Held*, (FULLERTON, J. dissenting) a taking of its property without due process of law. *Northern Pac. Ry. Co. v. Railway Commission* (1910), — Wash. —, 108 Pac. 938.

All regulation of railways is limited in its scope by the due process clause of the Constitution. *United States v. Delaware & Hudson Co.*, 164 Fed. 215. So that the powers of a commission must be largely decided by the "gradual process of judicial inclusion and exclusion." Railways may be required to do many things as long as they are for the use or the protection of the public. A public benefit is not a public use, and just what is a public use is a judicial question. *Healy Lumber Co. v. Morris*, 33 Wash. 490. For example, a railway may be compelled to fence its road. *People v. Illinois Cent. Ry. Co.*, 235 Ill. 374. To build depots. *Railway Commission v. The P. and O. Cent. Ry. Co.*, 63 Me. 269; *State v. The Wabash, St. L. and Pac. Ry.*, 83 Mo. 144. To build side tracks on its own right of way. *State v. White Oak Ry. Co.*, 65 W. Va. 15. To make connections with cross lines for the transfer of cars. *Wisconsin, M. and P. Ry. v. Jacobson*, 179 U. S. 287. Nebraska went further and required a railway to put in a side track to a private elevator, and in so doing to cross land not belonging to the company; but the United States Supreme Court reversed that decision, holding that the Nebraska law was unconstitutional in that it did not provide indemnity for what it required. *Missouri Pac. Ry. v. Farmers' Elevator Co.*, 217 U. S. 196, 30 Sup. Ct. 461. On the other side, Washington has gone further than the United States Supreme Court, in refusing to compel a railway to extend its track 250 feet to a grain warehouse though a deed of the right of way was offered to the company at the time of trial. *Northwestern Warehouse Co. v. O. R. and N. Ry. Co.*, 32 Wash. 218. In the principal case the court holds that to require the company to put in the said sidetrack for the private use of the mill owner was a taking without due process of law.